

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-814-FDW**

KEVIN CELLENT,)
)
Petitioner,)
)
vs.)
)
FRANK L. PERRY, et. al.,)
)
Respondent.)
)

ORDER

THIS MATTER is before the Court in response to a letter received from Petitioner Kevin Cellent on April 12, 2017. (Doc. No. 3.)

Petitioner filed a pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in this Court on November 28, 2016. (Doc. No. 1). After conducting an initial review, the Court, in accordance with Hill v. Braxton, 277 F.3d 701, 706 (4th Cir. 2002), notified Petitioner that his habeas Petition appeared to be untimely under 28 U.S.C. § 2244(d)(1)(A). (Doc. No. 2.) Petitioner was provided 21 days to explain why his habeas Petition should not be dismissed as untimely.

In his letter, Petitioner states that he received the Court's Order on December 9, 2016, and filed a response within the 21 days provided. He asserts that, after hearing nothing from the Court, he asked his brother to check with the Clerk of Court on the status of his case. According to Petitioner, his brother has contacted the Clerk's Office several times and has been informed each time that it has not received Petitioner's response. (Doc. No. 3.)

Rather than resending his response, Petitioner is now seeking guidance on what he should do next. The Court cannot advise Petitioner what to do, but it will provide him additional time to

file a response to its initial Order.

IT IS HEREBY ORDERED that Petitioner shall, within 21 days from service of this Order, file a document explaining why his § 2254 Petition for Writ of Habeas Corpus should not be dismissed as untimely. If Petitioner does not file an explanation within 21 days from service of this Order, the Petition *shall* be dismissed without further notice.

IT IS FURTHER ORDERED that the Clerk of Court shall update the docket in this action to reflect Petitioner's change of address to Bertie Correctional Institution, P.O. Box 129, Windsor, N.C. 27983.

Signed: April 21, 2017



Frank D. Whitney
Chief United States District Judge

